Mr. SPECTER. I thank the Chair and the Senator from Michigan and the Senator from Nevada.

(The remarks of Mr. SPECTER pertaining to the introduction of S.J. Res. 41 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized for a period of 10 minutes.

PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, I appreciate very much being recognized and having an opportunity this morning to speak regarding the situation I believe we are in and the challenges right now as they relate to moving forward on addressing prices and cost containment in the pharmaceutical industry.

We heard a lot of discussion yesterday. We had the opportunity to debate whether to open the border to Canada to have more competition between the prices that American companies charge in the United States and those in Canada. I was pleased we were able to move forward and come together on a plan to open the border, and now we place it in the hands of the Secretary of Health and Human Services to certify the difference in prices which we know are there and the fact that there is no safety risk, which we know is the case. So I look forward to moving ahead.

A lot came up during that debate and I did want to, as we set the stage to debate additional efforts today to lower prices, speak as to how I view the situation in our country right now with our most profitable industry. I welcome the fact that we have a very profitable, successful prescription drug industry. There are new lifesaving drugs being created that keep people out of the hospital and living longer. We celebrate that.

Over the last several years, we have seen more and more of a focus on selling and marketing and promotion than creating the next generation of lifesaving drugs. That is of great concern to me. When we talk about reducing prices, we hear that means reducing research and development. Yet there is nothing today that indicates that is factually accurate.

Yesterday, Family USA produced another study showing the companies are spending 2.5 times more on advertising, promotion, marketing and administration than they do on research and development. The blue on my chart is R&D and the gold is advertising and marketing. For each of the top drug companies, the gold line is much higher than the blue line. We know there is more being spent in this effort.

We also know when you look overall at the profits versus R&D, we see stark numbers. Merck is a successful company in the United States. Their profit was three times more than what they spent on R&D last year. I do not begrudge that profit margin, but if we are going to have the next generation of new lifesaving medications, we need to see that R&D is the focus and that prescriptions are affordable. If they are not affordable, they are not available. That is not acceptable. This is about trying to get some balance in the system. Pfizer had 1.5 times more in profit last year than what they spent on R&D. They spent more on advertising than on R&D.

In the context of what we are talking about right now with corporate responsibility, and companies where executives take the dollars and run, leaving the shareholders or employees holding the bag, my concern is that while we are talking about the need to stop prescription drug prices from rising three times the rate of inflation, which is the average right now—the average drug used by seniors last year went up three times the rate of inflation. Our seniors do not have insurance coverage and are paying the highest prices in the world—but these companies are making top profits in the world today, and we find astounding salaries in compensation for the CEOs. I do not begrudge it, but I do when our average senior is deciding this morning: Do I eat breakfast or do I take my medicine? Companies are saying, no, they cannot lower prices; they could not possibly have more competition, they cannot open to Canada, they cannot allow more generics on the market, they cannot possibly handle more competition, or lowering prices without cutting R&D.

I am offended when I look at the numbers, when we are seeing more on promotion and advertising, more on the sales machine than on research and developing new drugs, more in profits, way more in profits than R&D, and more in the compensation for those at the top.

I will not name individuals, but we see the five highest paid executives in the industry, and the top at Bristol-Myers, with a salary of almost $75 million last year in direct compensation, not counting unexercised stock options. Compare that to the average senior who is either not getting their medicine, cutting their pills in half, or taking them every other week; families who are struggling; small businesses whose premiums are skyrocketing and are having trouble affording health care for their employees because of 30 to 40 percent premium increases, mostly because of prescription drugs, and employees are told they cannot get a pay raise next year because the company has to cover more in medical premiums. I believe that company is sincere in having to struggle with those benefits, those prices.

Put that picture together with that of the drug companies, one of the most highly subsidized industries in the world: $23.5 billion we as taxpayers put into the National Institutes of Health this year. So the companies can take that basic research, and I support that—I would support more—they take that basic research, and they then develop their drugs. We give them tax credits and tax writeoffs to develop through research. We also give them tax writeoffs for their administration, their sales, their marketing. We give them a 20-year patent so they are protected from competition for their name brand so they can recover their costs for R&D. What do we get at the end? The highest prices in the world, and an effort to fight everything we are trying to do in the Senate—to increase competition and to lower prices and to provide Medicare benefit.

Then to add insult to injury, we see those at the top of the companies that who are fighting us earning $75 million a year, $40 million a year, $28 million, $23 million, $15 million a year. We see unexercised stock options. At the top is Merck, $93 million in unexercised stock options; $76 million; $60 million; $56 million; $46 million.

I could live on that. I think everybody within the sound of my voice together could live on that. I don't begrudge that. But I do begrudge people in that category heading companies that fight everything we do. They have put more money into their lobbying corporation than anybody else. For every one Senator there are six drug company lobbyists who spend their time more on sales and marketing than anything else.

Let me speak from the standpoint of our future health care discoveries. In Money and Investing, the Wall Street Journal, there was an article about a merger this week, and one of the disturbing parts of that was this:

After falling for 5 years, new drug applications to the Food and Drug Administration are expected this year to slide further. Through the first 5 months of this year, the FDA had received just two new applications for new drugs. Last year, total new drug applications dropped to 24, less than half the 53 received in 1996. Many in the industry say that past mergers may be among these reasons for these drops in new drug discoveries.

What I see is an effort more and more to focus on the fast, easy money, the quarterly report. Eighty percent of the new applications for patents now at FDA are not for new lifesaving discoveries that increase our longevity and deal with health challenges, but they are, instead, what are called ''me too'' drugs; 80 percent of the patents. A purple pill becomes a pink bill, a daily dose becomes a weekly dose, or maybe, to add insult to injury, the packaging changes.

I urge, as I draw to a conclusion, that as we look at the issues before the Senate on increasing competition and lowering prices, we do so understanding there is a lot of room to bring down prices without ever touching R&D. I argue we need to do everything possible to change the incentives to a longer view, to more research and development. This industry is out of

whack, just as the other industries we were talking about, the system of accounting and auditing, the whole process that has now put us in a position where the incentives are to run right up to the line or over the line, to push for the quarterly profit statement, to look for the intermediate gain, the immediate cash rather than the long-term view.

Unfortunately, this is not a pair of shoes. It is not even a new car—and I want everybody to buy a new car. This is not an optional buy. This is life-saving medicine. The research is heavily subsidized and paid for by taxpayers, and I think we deserve better. I think that is what this debate is about.

We want a healthy industry, we want R&D, but we want the American taxpayers to get their money's worth and be able to afford the medicines they have invested in and helped to create, medicines that will help them and their families be able to be healthy.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

Mr. CORZINE. Madam President, I ask to speak for 10 minutes in morning business.

The PRESIDING OFFICER (Mrs. STABENOW). The Senator has that right and is recognized for a period of 10 minutes.

Mr. CORZINE. Madam President, I rise today to support passage of a Medicare prescription drug benefit and express my strong belief that the time has come when a Medicare prescription drug benefit that provides affordable and meaningful coverage for all our Nation's seniors should be implemented. We have a historic opportunity to reform our Medicare programs and put in place something that I think we all know is necessary and important for our Nation's well-being.

I particularly also thank Senator STABENOW, the Presiding Officer, for her extraordinary leadership in raising the level of awareness, the level of concern and consideration, not only inside the Chamber but across the country. She has done a remarkable job of elevating the quality of debate on the subject.

Furthermore, and equally so, I thank my colleagues, Senator BOB GRAHAM, Senator KENNEDY, and Senator MILLER, for their efforts to bring forward a real and meaningful prescription drug program. It is one that I think all of us should get behind and support. It is measured but certain.

I have yet to speak out on specific programs. As the Chair knows, the industry which you just so eloquently spoke about is an important part of the community which I represent. It has been important, in my view, to find a response to this great need in our Nation that also does not undermine all the elements that I think make the industry so important to our Nation and so entrepreneurial. In fact, I think the Graham-Kennedy-Miller program has found that balance. It is for that reason I also want to make sure I am on record expressing my support.

All of us know it is time to act. We need to ensure that seniors can afford their prescription drugs. We have heard the refrain that we should not be forcing people into these hard choices, and it is a reality. Anyone who is in public life, who interfaces with our senior citizens around our country—just as much in New Jersey as anyplace else—knows that these are real world choices for people: Whether they can afford their lifesaving, quality-of-life-producing prescription drugs or whether they have to choose between that and other aspects of quality of life, including the simple things such as house and home, and their ability to have quality of life in general, which our Nation can afford, absolutely, including putting food on the table.

The fact is, this is a choice far too many of our seniors are having to make, and it is time for us to move to make these costly drugs available so our seniors can lead that independent, productive life that I think all of us hope for, for our families, our parents, and certainly we want for our generation as well.

That is why I support this bill. I will be very aggressive in getting out and trying to promote it, not only here in the Chamber but actually among those in the industry so we can move forward.

This effort truly does guarantee prescription drug coverage for every senior—it is universal—rather than relying on the private insurance industry to provide that coverage. That is what the alternative House bill is all about. I think many of us think that is going to leave a lot of folks out of the system.

The Democratic package also ensures that seniors will have coverage all year. It does not have to deal with so-called doughnut holes, or black holes, two-thirds of the calendar year where people are left out of any kind of coverage. That is certainly the case with the proposal that is coming out of the House, the Republican proposal.

Under that proposal, a senior would pay $400 a month for her or his prescriptions, but they would essentially be out of coverage for nearly two-thirds of the calendar year. I think that is a major flaw that needs to be addressed. I think it is very effectively done in the Graham-Kennedy proposal.

Furthermore, the Republican proposal threatens to undermine the private insurance market. This is really a perverse economic impact. Their proposal would have the effect of encouraging employers to drop prescription drug coverage from employer-provided health plans. In 10 minutes I am not going to go through this, but the fact is, individual workers facing catastrophic drug costs would not have their drugs provided by the Government if their employer paid for some portion of those drug costs. It is a really serious flaw about which I think almost anyone who has analyzed the proposal coming from the House is concerned. It needs to be addressed under any circumstances.

I also ask those who have criticized the cost of the Democratic package that they consider the high cost of not providing comprehensive drug coverage. They call that a cost-benefit analysis. It is well known that prescription drugs reduce the number of hospital admissions, surgical procedures, and doctor visits. They also can reduce costly admissions to nursing homes, helping seniors to stay home longer. Those are real savings that will come. I do not think we have fully appreciated that or explained those or factored those into our thinking.

Needless to say, this is not just about saving money, it is about improving the quality of life for our seniors, allowing them to lead longer, healthier, and more productive lives. This is reform that Medicare needs. It is one we cannot afford not to address, not to deal with, not to move on.

In my own State of New Jersey, we recognized this need about 25 years ago when we created a pharmaceutical benefit for seniors—probably the best in the Nation. By the way, we have to make sure that as we legislate here, we engineer this legislation in a way that it is supportive of the prescription drug program we have in New Jersey, which is designed to serve the low- and middle-income seniors in an extraordinary way.

But I have to say it is almost unconscionable that States such as New Jersey and Pennsylvania—I think it has a similar program—have stepped to the plate to provide this important health care benefit to seniors while the Federal Government has failed to do it. As a matter of fact, it makes New Jersey a magnet for seniors—a positive element in our society. But people have recognized this fundamental need and have voted with their feet with respect to the follow-through on this.

The Democratic plan will help States such as New Jersey expand, if we are careful about how we write this legislation, and improve that prescription drug program for everyone. By contrast, the Republican proposal does nothing. As a matter of fact, it will increase—if we are to meet the constraints that are put down in the bill—co-pays and coverage under our PAAD Program, which is what our benefit program is called. That is simply unacceptable and will require a lot of resistance from those of us who care about our seniors—in New Jersey specifically.

Last year, the Senate passed a Patients' Bill of Rights to ensure that Americans with private health insurance have access to prescription drugs and medical procedures they need to maintain their health. Should we not offer the same protection to our seniors, millions of whom currently lack access to essential medicines? It is a fundamental flaw of Medicare. It is one we need to deal with, particularly because Medicare was designed before the explosive growth of medications, so the

use of medicines is not covered where they are now being applied.

We have an opportunity and a responsibility to correct this flaw by enacting a prescription drug benefit.

I want to work with my colleague in the Chair, my friend from New York, and all of those who truly care about making our society one where access to quality of life that America can offer is made available to all citizens. It is absolutely essential that we move forward.

Lastly, it concerns me that we are willing to spend $4 trillion to make last year's tax cuts permanent, which essentially goes to a lot of those people the Chair was talking about who are making $70 million and $40 million, the well off in our society, and we don't think we have the resources to pass a $100 billion prescription drug benefit for senior citizens in our Nation.

It is time for us to act. Those people have worked hard, paid their taxes, and supported our Nation in all kinds of ways. It is time to get a prescription drug benefit, get it through this Chamber, get it to the House and to the President's desk.

I thank the Chair. I look forward to working with you and all my colleagues to make sure this comes to pass as soon as possible.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Madam President, I commend my colleague from New Jersey for his statement, which I think all of us recognize was arrived at after considerable study and thought since he does represent a State which has a concentration of our finest pharmaceutical companies. His statement today, which shows a balance and a very thoughtful approach to policies that affect us, is a great addition to this debate.

Madam President, I ask unanimous consent to speak for up to 12 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Thank you, Madam President.

Madam President, I wish to pick up on a comment that you made at the end of your remarks before assuming the Chair.

I, as all of our colleagues, deeply respect the leadership you have provided on this issue. You are down here on the floor day after day making the case on behalf of the need for prescription drug coverage and reform that would provide the lifesaving quality-of-life drugs to our seniors and open the doors to others who are not yet of Medicare eligibility but who have very high prescription drug costs.

At the end of your remarks you said this was connected to the debate that we finished last week concerning the serious issues about accounting and corporate governance to which we have to pay special attention. I agree with that. We may be debating prescription drug coverage, but it is in the larger context of what kind of country we want to be. What kind of values do we espouse? How are we going to ensure that people not only have the perception but the reality that our system works for everybody, not just for the rich and the powerful, not just for the big companies but for the small businesses and for the average citizen? There is a connection. I think that connection deserves to be drawn. I thank you for doing so.

The legislation we are discussing this week addresses not just a top health priority but a fundamental value of who we are as Americans. Will we or will we not provide access to affordable prescription drugs for our seniors? Will we or will we not make equivalent generic drugs available for all Americans? Simple question; complicated answer. That is what we are attempting to work out today.

The prescription drug issue is well known to any of us who have had to fill a prescription in the last several years. Prescription drug costs have been rising at an annual rate of 20 percent, far outpacing inflation and more than doubling in the last 5 years.

We set a goal a couple of years ago to double NIH funding within 5 years, but instead we have seen the doubling of drug industry costs.

Costs have increased for a number of reasons. People have begun to use more of these so-called lifestyle drugs in addition to the lifesaving drugs. Costs are also increasing because of drug company marketing efforts to shift patients away from older, less expensive drugs to newer, costlier, so-called ''me too'' drugs which have had an impact. ''Me too'' drugs are copycat drugs that actually do little or nothing more than the existing drugs we already have, but they are more expensive because they are new. It is like when you go to the supermarket and they say new and improved, new and different. These are new but not necessarily improved drugs. They are copycat drugs.

We have recently heard examples of Vioxx and Celebrex, expensive, new, heavily advertised drugs that doctors now tell us may be no better than the kinds of drugs you get across the counter for which you don't need a prescription.

Drug companies are also spending up to $13,000 per doctor annually trying to influence research results and prescribing patterns. Think about it. Every doctor in America has a $13,000 allocation from drug companies that flood his or her offices with salespeople with all kinds of inducements—with trips and dinners and the like in order to convince the doctor to use this different drug than the doctor has been using or to try the new and improved copycat drug. This is going on despite the ethics and gift guidelines that the American Medical Association has developed and that the pharmaceutical association—known as PhRMA—has agreed to follow.

Many of my physician constituents continue to complain to me that, despite these ethical guidelines, drug company representatives have attempted to circumvent and flout them.

With the multibillion-dollars that drug companies spend annually on drug promotion and on physicians, this shocks me, I have to tell you. I said to my staff: You have to go and triplecheck this. I couldn't believe it. But with the money they spend on drug promotion mostly directly to physicians, their spending exceeds the amount of money that we spend as a nation educating all medical students and medical residents in our Nation.

That just isn't right. We have a voluntary set of guidelines that are supposed to control it, but, unfortunately, as with a lot of human nature, those voluntary guidelines don't have enough teeth in them to make it happen.

I am also concerned about the erosion of privacy. Drug companies are doing everything they can to convince patients—that is you and me—to try the drug. In addition to convincing physicians with all of their money, they are spending a heck of a lot of money trying to convince us to try something.

A friend of mine said she didn't even know she had a problem until she saw an advertisement. And all of a sudden, she now thinks she has a problem. She talked to her doctor. Her doctor said she really didn't need it. She said: I am not sure. She said: Should I listen to the doctor or should I listen to the advertising? I said: For Heaven's sake, you wouldn't do that on anything else. Why would you do it on this?

Advertising really works. It gets into our psyche. It kind of convinces us of things and makes us feel that we are not doing what we should unless we go out and buy a new product. That is the same with new drugs.

The privacy aspect is different than going out and being convinced that you need a different car or that you should try a different detergent.

Under the Bush administration, privacy regulations previously issued by the Secretary of Health and Human Services have been changed. These changes make it easier for drug companies to acquire patient information about us and then to use that patient information they get from doctors, pharmacists, or health provider organizations without our full knowledge, and certainly without our prior consent.

Several weeks ago, we heard about a woman in Florida who received an unsolicited prescription drug, Prozac, in the mail. She believes her privacy was violated. I think she is right. It was violated. Can you imagine, all of a sudden, into your mailbox come drugs that you never asked for, that were never prescribed for you? I do not think any drug company should have access to a patient's records or be able to use that kind of intimate information without a patient's full agreement and consent.

So I worry about the combination of the Bush administration weakening

privacy regulations and the drug companies using that information, which is extremely personal, to try to sell us something.

I do not have any argument with the lifesaving benefits that are provided to all of us because of the work done by pharmaceutical manufacturers. Their role in the American health system is not only vital but should be rewarded through exclusive patents on their discovery for the full patent term of up to 20 years, as set forth by one of our colleagues and a colleague from the House in the Hatch-Waxman bill passed years ago.

However, Hatch-Waxman represented a carefully crafted balance designed to make the American consumer—the American patient—the ultimate beneficiary. On the one hand, Hatch-Waxman established full restoration of the monopoly patent time for a brand name drug as an incentive for real innovation. On the other hand, Hatch-Waxman ensured that after the monopoly term ended, the consumer would get the benefit of competition because there would no longer be an exclusive right to manufacture and market that drug.

We know the consumer will get benefits with lower drug prices and generic versions which are just as good as the brand name patented versions. Generic drugs share the same active ingredients as the brand name drugs but, as this chart shows, the generics are usually considerably less expensive. Generic drugs have also increased in price but at a much slower rate than brand name drugs have.

Generic drugs help keep prices down, particularly for our seniors. If you look at this next chart, it is a chart showing the costs that are involved in manufacturing and advertising drugs. It is very clear that the amount of money that is spent to market these drugs goes right into the cost of them. That $13,000 per doctor, that has to be paid by somebody, and we are the ones who end up paying for it.

It is important to protect innovation. Nobody wants to undermine innovation. But in recent years, drug companies have clearly taken advantage of these loopholes to keep generics off the market. What we have found is that the brand name manufacturers are frivolously listing patents not because the generics will infringe on the patents but simply to force generics to certify that those patents are invalid in order to get the lower priced generic drugs to market. The reason is that forcing this certification gives the brand name drug an automatic 2½-year extension, called a 30-month stay, on their monopoly, regardless of the merits of the patent.

Let me give you a few quick examples.

There is a medication called Pulmicort, which is an asthma medication. In addition to all the patents on the compound—in other words, the active ingredients that are in the drug that makes it work for asthma—in addition to all the patents on the compound, on its use, and on its formulation, they have a patent on the container, which is in what is called the Orange Book. The container may be a really nice container, it may look great inside your medicine chest, but when a generic company is seeking to make a pill for asthma, it is not trying to make the bottle, it is trying to make the pill. So a patent on the bottle should not prevent the generic version of the drug from coming to market.

In addition, we know that some drug companies make sweetheart deals with generic companies, literally paying them—I would say bribing them—to stay off the market, which under one of the loopholes in the current law means that other generics also have to stay out of the market.

So generic X comes and says, we are going to the market with this drug, and the big drug company says, we will pay you not to; and they say, OK, we will not. That means nobody can come with a competitive drug that will do the same thing at a lower price.

I support adequate patent terms for pharmaceutical manufacturers to conduct research and development, which all of us know is high risk and high stakes, but the best way to encourage that research and development is a prospective approach rather than a patent extension after the fact.

Companies, as we know, have been maneuvering at the 11th hour just as their patents are about to expire. This legislation, the underlying Schumer-McCain legislation, is intended to prevent that.

So let's do the right thing. Let's get our generic manufacturers a level playing field. Let's get a prescription drug benefit for our seniors. And let's send a message to America that we want to treat people fairly in this great country of ours.

Thank you, Madam President.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. THOMAS. Madam President, how much time is remaining on the division in morning business?

The PRESIDING OFFICER. Five minutes is remaining in morning business.

Mr. THOMAS. That is the share the Republicans have?

The PRESIDING OFFICER. That is the current share, yes.

Mr. THOMAS. I wish we could have divided the time up if we say we are going to.

The PRESIDING OFFICER. The Senator from Pennsylvania was accorded, I believe, 15 minutes.

Mr. THOMAS. And we were accorded 30 minutes, and we didn't get 30 minutes.

PRESCRIPTION DRUGS

Mr. THOMAS. Madam President, I will take just a short time to talk a little bit about pharmaceuticals. Obviously, there are different ideas about that. Indeed, there should be. We are on the floor again, however, without having a committee suggestion to follow, so it will be difficult for us. But certainly we need to do that.

I suggest that the tripartisan bill that is before us is probably the one that is most likely to get support. Indeed, it is the only bipartisan plan in the Senate.

We truly talk about finding common ground traditionally between the views. I think that is a good idea. This bill reforms Medicare and provides prescription drug benefits which will ensure that seniors do have coverage.

The proposal, if it had been debated, I think would have come out of the committee as the one selected. The tripartisan bill spends about $330 billion over 10 years for drugs, which is more than some of the bills, but is considerably less than the one the Democrats have put forth. So this, perhaps, is a reasonable compromise between those proposals.

I think the Democrat bill is unofficially scored at $500 billion for 5 years, and then it expires. So I think that is one of the difficulties, the idea that it expires.

The tripartisan bill also spends $40 billion to make some long overdue changes in Part B and Part A so seniors will have health coverage. So there seems to be quite more available there than in the alternatives. I hope we do something.

Just to comment, one of the things that, of course, we are dealing with—we have talked about, and I think has merit—is the idea of reimportation. That is kind of what is on the floor at the moment. I think there is some merit in that. I do not believe it is the final solution. Indeed, as it gets into operation, we may find it more difficult than it has been.

I think the Cochran amendment, that was passed yesterday, is very useful in terms of safety as it relates to the bill. I do think we ought to go a bit further; that is, I think there ought to be some labeling so that consumers have the opportunity to choose whether or not they want to take on the reimported drugs that have gone through Canada, that may or may not have come from the United States in the beginning. So I do think perhaps we ought to consider the idea, which can be very simple, to have it labeled that it is imported from Canada so people can, in fact, make those kinds of choices.

Mr. President, since our time has been used, I will yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BINGAMAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.